IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Before the Board of Patent Appeals and Interferences

In re the Application of

Inventor	**:**	**Daniel J. Powers**
Application No.	**:**	**10/574,343**
Filed	**:**	**March 30, 2006**
For	**:**	**APPARATUS AND METHOD FOR PACKAGING A CAPACITOR**

APPEAL BRIEF

On Appeal from Group Art Unit 3762
Examiner Amanda K Patton

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I. REAL PARTY IN INTEREST

The real party in interest is Koninklijke Philips Electronics N.V., Eindhoven, The Netherlands by virtue of an assignment recorded March 30, 2006 at reel 017779, frame 0081.

II. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

III. STATUS OF CLAIMS

This application was originally filed with Claims 1-20. Applicant cancelled Claims 7, 15, and 18-20 during prosecution. The remaining Claims 1-6, 8-14, 16 and 17 stand finally rejected by an Office Action mailed January 10, 2010. Claims 1-6, 8-14, 16 and 17 are the subject of this appeal.

IV. STATUS OF AMENDMENTS

An amendment to Claims 1, 9, and 17 was submitted on March 22, 2010, subsequent to the final rejection mailed January 10, 2010. The amendment was submitted in accordance with 37 CFR §41.33(a) and 37 CFR §116(b)(2) to place the application in better form for consideration on appeal.

The Claim 1 amendment was made in response to a 35 USC §112 rejection raised by the Examiner in the Final Office Action of January 10. The Examiner contended that the phrase "capacitor interface electronics of the external defibrillator" was unclear, and suggested that the Claim be amended to positively recite "external defibrillator" in the preamble and then to clarify that the capacitor interface electronics are part of the defibrillator. Applicant's subsequent amendment to claim 1 was offered to clarify the claim language as suggested by the Examiner.

A notice of appeal was timely filed on April 9, 2010. In the Advisory Action dated April 13, 2010, entry of the amendment was refused on the basis that the offered amendment raised new issues that would require further consideration and/or search.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

This invention pertains to an external defibrillator having a novel two-cavity housing. The first cavity is shaped such that a capacitor core, which stores electrical energy for defibrillation shocks, can be directly potted inside. The second cavity is shaped to hold the interface electronics which connect the capacitor to the rest of the defibrillator circuitry. The housing design eliminates the need for a redundant protective capacitor can and for the can's supporting structure such as cradles, adhesives, pads, support ribs, and fasteners. By eliminating air-void spaces, the invention also allows for reduced high voltage stand-off requirements between the capacitor and other components. Compare Specification pg. 1 ln. 11-25 with pg. 4 lns. 16-23. Thus, the invention achieves reduced manufacturing costs and a more rugged and compact device.

All known prior art defibrillators are constructed of discrete components. In contrast, the present invention is a defibrillator that is constructed by integrating the wound core of an energy storage capacitor directly into the defibrillator housing. See Claim 9. What results is a manufacturing assembly process with fewer steps and thus fewer assembly-related defects.

Claim 1, both as finally rejected and with the proposed but refused amendment, is generally described in the Specification, pg. 1 ln. 29 – pg. 2 ln. 8. Embodiments of Claim 1 are shown in Figs. 2-4. Embodiments of Claim 1 are shown in Figs. 2-4.

Elements in both versions of Claim 1 are supported by the specification text {pg., ln} as follows. Only Claim 1 as finally rejected appears below.

1. An apparatus for packaging an energy storage capacitor adapted for use with an external defibrillator, the apparatus comprising:

a housing having a first interior region and a second interior region {pg.3, ln.23-33};

capacitor interface electronics of the external defibrillator located in the second interior region {pg.4, ln.10-15};

a wound core disposed in the first region of the housing and adapted for electrical connection to the capacitor interface electronics of the external defibrillator {pg.3, ln.13-22}, the wound core being arranged in such a manner that a void for receiving potting material is positioned between the wound core and a side surface of the housing {pg.5, ln.7-14}, and a conductive path adapted to electrically connect the wound core and the capacitor interface electronics in the second region of the housing {pg.2, ln.6-8};

the first region being sized to receive the wound core and the potting material, and having a cavity defined by the side surface, a closed first end, and an at least partially open second end {pg.5, ln. 3-7}, the second region being sized to receive the capacitor interface electronics{pg.5, ln. 7-8}; and

an exterior housing surface arrangeable to at least in part surround the interior regions {pg.3, ln. 23-25}.

Claim 17, both as finally rejected and with the proposed but refused amendment, are generally described in the Specification, pg. 1 ln. 29 – pg. 2 ln. 8. Embodiments of Claim 17 are shown in Figs. 2-4.

Elements in both versions of Claim 17 are supported by the specification text {pg., ln} as follows. Only Claim 17 as finally rejected appears below.

17. An external defibrillator, comprising:

a housing {pg.3, ln.23-33} comprising:

a first interior region and a second interior region, the first interior region defining a first cavity and having a having a configuration defined by a side surface, a closed first

end an at least partially open second end {pg.5, ln. 3-7}, the second interior region defining a second cavity;

a wound capacitor core arranged in the first interior region in such a manner that a void is positioned between the wound capacitor core and the side surface {pg.5, ln.7-14};

an electrical path for conductively connecting the wound capacitor core and the second interior region {pg.2, ln.6-8};

a potting material disposed in the void {pg.5, ln.11-14}; and

a capacitor interface disposed in the second interior region, the capacitor interface in communication with the wound capacitor core via the electrical path {pg.4, ln.10-15; pg. 5, ln.9-11}.

The additional element added to Claim 17 by the proposed but refused amendment,

an exterior housing surface arrangeable to at least in part surround each of the first and second interior regions,

is supported in the Specification, {pg.3, ln. 23-25}.

The interaction among the claim elements described above creates an ingenious utility which reduces the manufacturing costs for defibrillators, while simultaneously improving quality, reliability, and ruggedness. The first issue on appeal is whether the claimed invention is sufficiently definite under 35 USC §112. The second issue is whether the claims are novel over the prior art. The third issue is whether the claims are non-obvious over various combinations of the prior art. Appellant respectfully submits that the answer to all three issues is "yes", and accordingly requests that the Board reverse all grounds for rejection.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. Whether the term "external defibrillator" as used in the preamble and in the body of Claims 1-6, 8-14 and 16-17 rendered the claims indefinite under 35 U.S.C. §112.

B. Whether Claims 1-2 4-5, 8-10, 13-14, and 16 were improperly rejected under 35 U.S.C. §102(b) as being anticipated by GB 1,368,057 (Dennis).

C. Whether Claims 3 and 12 were improperly rejected under 35 U.S.C. §103(a) as being unpatentable over Dennis in view of US 6,535,096 (Rapoport).

D. Whether Claims 6 and 11 were improperly rejected under 35 U.S.C. §103(a) as being unpatentable over Dennis in view of US 4,546,300 (Shaikh).

E. Whether Claim 17 was improperly rejected under 35 U.S.C. §103(a) as being unpatentable over Dennis in view of US 5,645,571 (Olson).

VII. ARGUMENT

A. Whether the term "external defibrillator" as used in the preamble and in the body of Claims 1-6, 8-14 and 16-17 rendered the claims indefinite 35 under U.S.C. §112.

Claims 1-6, 8-14 and 16-17 were rejected under 35 U.S.C. §112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Examiner contends that it is unclear if the term "of the external defibrillator" as a modifier in the limitation "capacitor interface electronics of the external defibrillator" is being functionally or positively recited, as it is functionally recited in the preamble.

Appellant respectfully notes that only Claims 1 and 9 refer to the term "external defibrillator." Claim 17 lacks the term altogether.

Functional language does not, in and of itself, render a claim improper. *In re Swineheart,* 439 F.2d 210, 169 USPQ 226 (CCPA 1971). Functional language that is used to define a claim limitation is acceptable if it sets definite boundaries on the patent protection sought. *In re Barr*, 444 F.2d 588, 170 USPQ 33 (CCPA 1971).

Appellant submits that the use of the term " of the external defibrillator" in the body of Claim 1 unambiguously provides additional description to the capacitor interface electronics limitation, regardless of whether the term is used functionally or positively. The description comports fully with the use of the same "external defibrillator" term in the preamble, unambiguously describing a type of capacitor to which the capacitor interface electronics is connected. The Examiner has raised no objection to the presumption that one of ordinary skill in the art of defibrillation knows what type of capacitor is suitable for energy storage. Thus, Claim 1 complies with the 35 USC §112 definiteness requirements, and with the *In re Barr* standard.

Because the "external defibrillator" term appears in the preamble, no antecedent basis issues arise. Neither is Applicant positively claiming an external defibrillator in Claim 1. For these reasons, Applicant submits that the term "capacitor interface electronics of the external defibrillator" meets the definiteness requirements of 35 USC §112, and respectfully requests that the Board reverse the grounds for rejection.

The Examiner refused the amendment to Claim 1 because the amended term "defibrillator" "changes the scope of the claim…" Advisory Action Pg 2. Applicant respectfully notes that the existing preamble to Claim 1 already recites "defibrillator" such that is it clear that all of the claim elements are for use with an external defibrillator. Applicant's proposed amendment merely duplicates the "defibrillator" term in the claim body to more clearly identify the "housing" limitation as it is defined in the Specification. See Fig. 2 and pg. 3 ln. 20-25. Because the scope of Claim 1 is unchanged, as that of Claim 9 which depends on Claim 1, Applicant respectfully requests reconsideration and entry of the amendment in order to at least allow the resolution of Examiner's §112 rejection.

The Examiner also refused entry of the amendment to Claim 17 because the phrase "an exterior housing surface arrangeable to at least in part surround each of the first and second interior regions" "changes the scope of the claim..." Advisory Action Pg 2. Applicant respectfully notes that Claim 17 already comprises a housing element with two interior regions: the housing must inherently surround at least part of each region. The proposed amendment, which recites identical language already appearing in Claim 1, was offered to more clearly describe an inherent part of the housing. The scope of Claim 17 is thus unchanged by the proposed amendment. For this additional reason, Applicant respectfully requests reconsideration and entry of the amendment.

Because the claims scope is unaffected by the entry of the proposed amendment, identical arguments for patentability apply to both the proposed and as-rejected claims. Both sets of claims are provided in Appendix A for the Board's convenience and efficiency of disposition.

B. Whether Claims 1-2 4-5, 8-10, 13-14, and 16 were improperly rejected under 35 U.S.C. §102(b) as being anticipated by GB 1,368,057 (Dennis)..

Claim 1 describes an apparatus for packaging an energy storage capacitor adapted for use with an external defibrillator, the apparatus comprising a housing having a first interior region and a second interior region, capacitor interface electronics of the external defibrillator located in the second interior region, a wound core disposed in the first region of the housing and adapted for electrical connection to the capacitor interface electronics of the external defibrillator, the wound core being arranged in such a manner that a void for receiving potting material is positioned between the wound core and a side surface of the housing, and a conductive path adapted to electrically connect the wound core and the capacitor interface electronics in the second region of the housing, the first region being sized to receive the wound core and the potting material, and having a cavity defined by the side surface, a closed first end, and an at least partially open second end,

the second region being sized to receive the capacitor interface electronics, and an exterior housing surface arrangeable to at least in part surround the interior regions.

The first interior region of the housing provides space for the wound core which accommodates the potting material, obviating the need for a separate potting cup for the core. Capacitor interface electronics are located in the second interior region so that the electronics are separate from the potting material of the core. As is well known, external defibrillators charge the capacitor upwards of 2000 volts, which can over time result in failure of the associated electronic components. Since the electronics of the capacitor do not have to be potted, these components can be separately serviced and replaced as needed.

The Dennis capacitor comprises a capacitor roll 6 which is housed in the single compartment of a case 1. Potting material can be poured through opening 2 to fill the compartment. The capacitor lead wires extend through notches 3 in case 1. Cover 4 has truncated extensions 5 which correspond to notches 3, so when cover 4 is placed on top of the case, the lead wires are clamped into the apices of the triangular notches 3. Dennis Figs. 1-2.

The Examiner contends that Dennis anticipates each of the amended Claim 1 elements, including the second interior region, by teaching the void formed by the gap between the truncated extension 5 and notch 3, in which the lead wires 7 reside. The Examiner further contends that the outside of cover 4 is an exterior surface which surrounds the interior housing surface. The Examiner also contends that the portion of lead wire 7 residing in the void is the capacitor interface electronics of amended Claim 1. Applicant respectfully submits that Dennis fails to anticipate amended Claim 1 for at least three reasons.

First, the Examiner impermissibly considers a single element in Dennis, lead wire 7, to be two separate Claim 1 elements. The Examiner apparently considers one portion of lead wire 7 as the Claim 1 conductive path and an immediately adjacent portion of the same lead wire 7 as the Claim 1 capacitor interface electronics. Applicant

respectfully submits that lead wire 7 cannot comprise capacitor interface electronics, because it functions entirely as a conductive path. Dennis thus fails to disclose or suggest any capacitor interface electronics at all.

Amended Claim 1 further requires both regions, including the second interior region, to be at least partly surrounded by an exterior housing surface. In contrast, the Dennis "void" as identified by the Examiner must be open through the exterior housing surface in order to pass the lead wires: the "void" is at most partially surrounded by the wall thickness of the case, which is a separate surface than the exterior housing surface. Thus, no part of the Dennis exterior housing surface surrounds any part of the "void." For this reason, Dennis fails to anticipate a second interior region at least partially surrounded by an exterior housing surface.

Thirdly, amended Claim 1 requires the second interior region to be sized to receive the capacitor interface electronics. The Dennis void is much too small to receive lead wire 7, which must extend through and outside the "void." Dennis Fig. 2. Dennis thus fails to anticipate a second interior region sized to receive the capacitor interface electronics. For at least these reasons, amended Claim 1 is allowable over Dennis. Claims 2 , 4-5, 8-10, 13-14, and 16 are similarly allowable by reason of their dependence on allowable Claim 1.

C. Whether Claims 3 and 12 were improperly rejected under 35 U.S.C. §103(a) as being unpatentable over Dennis in view of US 6,535,096 (Rapoport).

The Examiner rejected Claims 3 and 12 under 35 U.S.C. 103(a) as unpatentable over Dennis in view of US Pat. 6,535,096 (Rapoport). Rapoport describes automobile ignition electronics which have a storage capacitor 72. Rapoport fails to remedy the aftoredescribed deficiencies of Dennis; first by failing to teach or suggest any housing with two internal regions; second by failing teach or suggest a second region of the capacitor housing sized to receive capacitor interface electronics. Thus it is seen that Rapoport has the same deficiencies as Dennis with regard to Claim 1. Since Claims 3

and 12 both depend from Claim 1, it is respectfully submitted that these claims are patentable by reason of their dependency.

D. Whether Claims 6 and 11 were improperly rejected under 35 U.S.C. §103(a) as being unpatentable over Dennis in view of US 4,546,300 (Shaikh).

Claims 6 and 11 were rejected under 35 U.S.C. 103(a) as unpatentable over Dennis in view of US Pat. 4,546,300 (Shaikh). Shaikh describes an oil-filled submersible capacitor for a submersible pump. The capacitor 23 and a switch 24 are potted in the single compartment of a housing 27 so they will be water-tight and protected from the oil. Shaikh also fails to remedy the deficiencies of Dennis and Rapoport with regard to amended Claim 1; Like Dennis and Rapoport, Shaikh fails to disclose or suggest any housing with two interior regions, one for a potted capacitor core and another sized to receive capacitor interface electronics. Since Claims 6 and 11 both depend from amended Claim 1, it is respectfully submitted that these claims are patentable by reason of their dependency.

E. Whether Claim 17 was improperly rejected under 35 U.S.C. §103(a) as being unpatentable over Dennis in view of US 5,645,571 (Olson).

Claim 17 was rejected under 35 U.S.C. 103(a) as being unpatentable over Dennis in view of US Pat. 5,645,571 (Olson et al.) Claim 17 describes an external defibrillator, comprising a housing comprising a first interior region and a second interior region, the first interior region defining a first cavity and having a having a configuration defined by a side surface, a closed first end an at least partially open second end, the second interior region defining a second cavity, a wound capacitor core arranged in the first interior region in such a manner that a void is positioned between the wound capacitor core and the side surface, an electrical path for conductively connecting the wound capacitor core and the second interior region, a potting material disposed in the void, and a capacitor interface disposed in the second interior region, the capacitor interface in communication with the wound capacitor core via the electrical path.

The first and second interior regions provide one space for potting a wound capacitor core and a second space for a capacitor interface which is coupled to the capacitor core, so that the interface can be serviced or replaced because it is not in the potted space with the capacitor core. Olson et al. mention capacitors in their defibrillator in column 4 but do not illustrate them in their drawings, nor do they say anything about the construction or configuration of the capacitors.

Dennis, as previously explained, fails to teach or suggest any capacitor housing with two interior regions, each of which defines a cavity. A cavity is described in Claim 17 as having a side surface and at least one closed end. "Cavity" is commonly defined as a hollowed out space. Merriam-Webster Online. 4 June 2010, http://www.merriam-webster.com/dictionary/cavity. The Dennis "void", described previously, is merely an opening in the housing; the "void" thus has no closed end, nor can it be considered a hollowed out space. Thus, Dennis fails to disclose or suggest the second interior region limitation of Claim 17.

Olson et al. fails to remedy the Dennis deficiency by failing to teach or suggest any housing with two interior regions. Accordingly it is respectfully submitted that Claim 17 is patentable over Dennis and Olson et al.

VIII. CONCLUSION

This invention provides an ingenious utility which reduces the manufacturing costs for defibrillators, while simultaneously improving quality, reliability, and ruggedness. The Claim 1 language clearly meets the definiteness requirements for 35 USC §112 purposes. None of the prior art references disclose or suggest a two-chambered defibrillator housing in which a wound capacitor core is directly potted, which is a limitation appearing in all claims. Thus, the claims are novel under 35 USC §102 and non-obvious under 35 USC §103(a).

Accordingly, Appellant respectfully requests that this Honorable Board reverse the grounds of rejection of Claims 1-6, 8-14, 16 and 17 of this application which were stated in the January 20, 2010 Office action.

In the interest of further clarity in the claims language, Applicant also respectfully requests that this Honorable Board reverse the Examiner's refusal to enter Applicant's proposed amendment of March 22, 2010. Claims so amended would remain allowable for the same reasons presented above. Thus, Applicant respectfully requests that this Honorable Board alternatively reverse the grounds of rejection of amended Claims 1-6, 8-14, 16 and 17 of this application.

Respectfully submitted,
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APPENDIX A: CLAIMS APPENDIX

The following Claims are the claims involved in this appeal.

1. (previously presented) An apparatus for packaging an energy storage capacitor adapted for use with an external defibrillator, the apparatus comprising:

a housing having a first interior region and a second interior region;

capacitor interface electronics of the external defibrillator located in the second interior region;

a wound core disposed in the first region of the housing and adapted for electrical connection to the capacitor interface electronics of the external defibrillator, the wound core being arranged in such a manner that a void for receiving potting material is positioned between the wound core and a side surface of the housing, and a conductive path adapted to electrically connect the wound core and the capacitor interface electronics in the second region of the housing;

the first region being sized to receive the wound core and the potting material, and having a cavity defined by the side surface, a closed first end, and an at least partially open second end, the second region being sized to receive the capacitor interface electronics; and

an exterior housing surface arrangeable to at least in part surround the interior regions.

1. (proposed, refused amendment after final) An apparatus for packaging an energy storage capacitor ~~adapted for use within~~ an external defibrillator, the apparatus comprising:

a defibrillator housing having a first interior region and a second interior region;

capacitor interface electronics ~~of the external defibrillator~~ located in the second interior region;

a wound core disposed in the first region of the housing and adapted for electrical connection to the capacitor interface electronics ~~of the external defibrillator~~, the wound core being arranged in such a manner that a void for receiving potting material is positioned between the wound core and a side surface of the housing~~, and~~;

a conductive path adapted to electrically connect the wound core in the first region of the housing to ~~and~~ the capacitor interface electronics in the second region of the housing;

the first region being sized to receive the wound core and the potting material, and having a cavity defined by the side surface, a closed first end, and an at least partially open second end, the second region being sized to receive the capacitor interface electronics; and

an exterior housing surface arrangeable to at least in part surround each of the first and second interior regions.

2. (previously presented) The apparatus according to claim 1, further comprising:

a potting material substantially filling the void.

3. (previously presented) The apparatus according to claim 2, wherein the potting material comprises one of oil and epoxy.

4. (previously presented) The apparatus according to claim 1, wherein the housing and exterior housing surface comprise a molded plastic housing.

5. (previously presented) The apparatus according to claim 1, wherein the housing and exterior housing surface comprise a plurality of interconnected parts.

6. (previously presented) The apparatus according to claim 1, wherein the capacitor interface electronics comprise a circuit board.

7. (canceled)

8. (original) The apparatus according to claim 1, wherein the side surface comprises one of an oval surface, a circular surface and a box-like surface.

9. (previously presented) A method for packaging the energy storage capacitor of Claim 1, the energy storage capacitor having the wound core adapted for communication with capacitor interface electronics associated with the external defibrillator, the method comprising:

providing the housing having the first region and the second region, the first region having a cavity defined by the side surface, the closed first end, and the at least partially open second end, the second region sized to receive the capacitor interface electronics;

arranging the wound core in the first region in such a manner that the void for receiving the potting material is positioned between the wound core and the side surface, and the wound core is positioned for communication with the capacitor interface electronics when the capacitor interface electronics are disposed in the second region; and

depositing the potting material into the void.

9. (proposed, refused amendment after final) A method for packaging the energy storage capacitor of Claim 1, the energy storage capacitor having the wound core adapted for communication with the capacitor interface electronics ~~associated with the external defibrillator~~, the method comprising:

providing the housing having the first region and the second region, the first region having a cavity defined by the side surface, the closed first end, and the at least partially open second end, the second region sized to receive the capacitor interface electronics;

arranging the wound core in the first region in such a manner that the void for receiving the potting material is positioned between the wound core and the side surface, and the wound core is positioned for communication with the capacitor interface electronics when the capacitor interface electronics are disposed in the second region; and

depositing the potting material into the void.

10. (previously presented) The method according to claim 9, further comprising:

disposing the capacitor interface electronics in the second region; and

establishing electrical communication between the wound core and the capacitor interface electronics.

11. (previously presented) The method according to claim 9, wherein the capacitor interface electronics comprise a circuit board.

12. (previously presented) The method according to claim 9, wherein the potting material comprises one of oil and epoxy.

13. (previously presented) The method according to claim 9, wherein the housing comprises a molded plastic housing.

14. (previously presented) The method according to claim 9, wherein the housing comprises a plurality of interconnected plastic parts.

15. (canceled)

16. (original) The method according to claim 9, wherein the side surface comprises one of an oval surface, a circular surface and a box-like surface.

17. (currently amended) An external defibrillator, comprising:

a housing comprising:

a first interior region and a second interior region, the first interior region defining a first cavity and having a having a configuration defined by a side surface, a closed first end an at least partially open second end, the second interior region defining a second cavity;

a wound capacitor core arranged in the first interior region in such a manner that a void is positioned between the wound capacitor core and the side surface;

an electrical path for conductively connecting the wound capacitor core and the second interior region;

a potting material disposed in the void; and

a capacitor interface disposed in the second interior region, the capacitor interface in communication with the wound capacitor core via the electrical path.

17. (proposed, refused amendment after final) An external defibrillator, comprising:

a housing comprising:

a first interior region and a second interior region, the first interior region defining a first cavity and having a having a configuration defined by a side surface, a closed first end an at least partially open second end, the second interior region defining a second cavity;

a wound capacitor core arranged in the first interior region in such a manner that a void is positioned between the wound capacitor core and the side surface;

an electrical path for conductively connecting the wound capacitor core and the second interior region;

a potting material disposed in the void; ~~and~~

a capacitor interface disposed in the second interior region, the capacitor interface in communication with the wound capacitor core via the electrical path; and

an exterior housing surface arrangeable to at least in part surround each of the first and second interior regions.

18. - 20. (canceled)

APPENDIX B: EVIDENCE APPENDIX

No extrinsic evidence is submitted in this case.

APPENDIX C: RELATED PROCEEDINGS APPENDIX

None. There are no related proceedings.